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ABSTRACT

This report describes the No Child Left Behind Act of 2001, Title III: Language Instruction for Limited English Proficient and Immigrant Students. Part A describes the English Language Acquisition, Language Enhancement, and Academic Achievement Act. Its four subparts include the following: (1) grants and subgrants for English language acquisition and language enhancement (e.g., formula grants to states, Native American and Alaska Native children in school, and local plans); (2) accountability and administration (e.g., evaluations, reporting requirements, and civil rights); (3) national activities (National Professional Development Project); and (4) definitions (eligible entry). Part B discusses improving language instruction educational programs and is made up of five subparts: (1) program development and enhancement (e.g., program enhancement activities and capacity building); (2) research, evaluation, and dissemination (e.g., authority, research, and state grant program); (3) professional development; (4) Emergency Immigrant Education Program (e.g., purpose, withholding, and administrative provisions); and (5) administration (release time, notification, and coordination and reporting requirements. Part C presents general provisions (definitions, parental notification, National Clearinghouse, and regulations). (SM)

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NO CHILD LEFT BEHIND ACT OF 2001

TITLE III:

LANGUAGE INSTRUCTION FOR LIMITED ENGLISH PROFICIENT AND IMMIGRANT STUDENTS

107th Congress
1st Session

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INDEX

TITLE III – LANGUAGE INSTRUCTION FOR LIMITED ENGLISH PROFICIENT AND IMMIGRANT STUDENTS

Sec. 3001. Authorizations of appropriations; condition on effectiveness of parts.

PART A – ENGLISH LANGUAGE ACQUISITION, LANGUAGE ENHANCEMENT, AND ACADEMIC ACHIEVEMENT ACT

Sec. 3101. Short title.
Sec. 3102. Purposes.

Subpart 1 – Grants and Subgrants for English Language Acquisition and Language Enhancement

Sec. 3111. Formula grants to States.
Sec. 3112. Native American and Alaska Native children in school.
Sec. 3113. State and specially qualified agency plans.
Sec. 3114. Within-State allocations.
Sec. 3115. Subgrants to eligible entities.
Sec. 3116. Local plans.

Subpart 2 – Accountability and Administration

Sec. 3121. Evaluations.
Sec. 3122. Achievement objectives and accountability.
Sec. 3123. Reporting requirements.
Sec. 3124. Coordination with related programs.
Sec. 3125. Rules of construction.
Sec. 3126. Legal authority under State law.
Sec. 3127. Civil rights.
Sec. 3128. Programs for Native Americans and Puerto Rico.
Sec. 3129. Prohibition.

Subpart 3 – National Activities

Sec. 3131. National professional development project.

Subpart 4 – Definitions

Sec. 3141. Eligible entity.

PART B – IMPROVING LANGUAGE INSTRUCTION EDUCATIONAL PROGRAMS

Sec. 3201. Short title.
Sec. 3202. Purpose.
Sec. 3203. Native American children in school.
Sec. 3204. Residents of the territories and freely associated states.

Subpart 1 – Program Development and Enhancement

Sec. 3211. Financial assistance for language instruction educational programs.
Sec. 3212. Program enhancement activities.
Sec. 3213. Comprehensive school and systemwide improvement activities.
Sec. 3214. Applications.
Sec. 3215. Capacity building.
Sec. 3216. Programs for Native Americans and Puerto Rico.
Sec. 3217. Evaluations.
Sec. 3218. Construction.

Subpart 2 – Research, Evaluation, and Dissemination

Sec. 3221. Authority.
Sec. 3222. Research.
Sec. 3223. Academic excellence awards.
Sec. 3224. State grant program.
Sec. 3225. Instruction materials development.

Subpart 3 – Professional Development

Sec. 3231. Professional development grants.

Subpart 4 – Emergency Immigrant Education Program

Sec. 3241. Purpose.
Sec. 3242. State administrative costs.
Sec. 3243. Withholding.
Sec. 3244. State allotments.
Sec. 3245. State applications.
Sec. 3246. Administrative provisions.
Sec. 3247. Uses of funds.
Sec. 3248. Reports.

Subpart 5 – Administration

Sec. 3251. Release time.
Sec. 3252. Notification.
Sec. 3253. Coordination and reporting requirements.

PART C – GENERAL PROVISIONS

Sec. 3301. Definitions.
Sec. 3302. Parental notification.
Sec. 3303. National Clearinghouse.
Sec. 3304. Regulations.

TITLE III—LANGUAGE INSTRUCTION FOR LIMITED ENGLISH PROFICIENT AND IMMIGRANT STUDENTS

SEC. 301. LANGUAGE INSTRUCTION FOR LIMITED ENGLISH PROFICIENT CHILDREN AND IMMIGRANT CHILDREN AND YOUTH.

Title III (20 U.S.C. 6801 et seq.) is amended to read as follows:

"TITLE III—LANGUAGE INSTRUCTION FOR LIMITED ENGLISH PROFICIENT AND IMMIGRANT STUDENTS

"SEC. 3001. AUTHORIZATIONS OF APPROPRIATIONS; CONDITION ON EFFECTIVENESS OF PARTS.

"(a) AUTHORIZATIONS OF APPROPRIATIONS.—

"(1) IN GENERAL.—Subject to subsection (b), there are authorized to be appropriated to carry out this title, except for subpart 4 of part B, $750,000,000 for fiscal year 2002 and such sums as may be necessary for each of the 5 succeeding fiscal years.

"(2) EMERGENCY IMMIGRANT EDUCATION PROGRAM.—There are authorized to be appropriated to carry out subpart 4 of part B (when such part is in effect) such sums as may be necessary for fiscal year 2002 and each of the 5 succeeding fiscal years.

"(b) CONDITIONS ON EFFECTIVENESS OF PARTS A AND B.—

"(1) PART A.—Part A shall be in effect for any fiscal year for which the amount appropriated under paragraphs (1) and (2) of subsection (a) equals or exceeds $650,000,000.

"(2) PART B.—Part B shall be in effect only for a fiscal year for which part A is not in effect.

"(c) REFERENCES.—In any fiscal year for which part A is in effect, references in Federal law (other than this title) to part B shall be considered to be references to part A. In any fiscal year for which part B is in effect, references in Federal law (other than this title) to part A shall be considered to be references to part B.

"PART A—ENGLISH LANGUAGE ACQUISITION, LANGUAGE ENHANCEMENT, AND ACADEMIC ACHIEVEMENT ACT

"SEC. 3101. SHORT TITLE.

"This part may be cited as the 'English Language Acquisition, Language Enhancement, and Academic Achievement Act'.

"SEC. 3102. PURPOSES.

"The purposes of this part are—

"(1) to help ensure that children who are limited English proficient, including immigrant children and youth, attain English proficiency, develop high levels of academic attainment in English, and meet the same challenging State academic content and student academic achievement standards as all children are expected to meet;

"(2) to assist all limited English proficient children, including immigrant children and youth, to achieve at high levels in the core academic subjects so that those children can meet the same challenging State academic content and student academic achievement standards as all children are expected to meet, consistent with section 1111(b)(1);

"(3) to develop high-quality language instruction educational programs designed to assist State educational agencies, local educational agencies, and schools in teaching limited English proficient children and serving immigrant children and youth;

"(4) to assist State educational agencies and local educational agencies to develop and enhance their capacity to provide high-quality instructional programs designed to prepare limited English proficient children, including immigrant children and youth, to enter all-English instruction settings;

"(5) to assist State educational agencies, local educational agencies, and schools to build their capacity to establish, implement, and sustain language instruction educational programs and programs of English language development for limited English proficient children;

"(6) to promote parental and community participation in language instruction educational programs for the parents and communities of limited English proficient children;

"(7) to streamline language instruction educational programs into a program carried out through formula grants to State educational agencies and local educational agencies to help limited English proficient children, including immigrant children and youth, develop proficiency in English, while meeting challenging State academic content and student academic achievement standards;

"(8) to hold State educational agencies, local educational agencies, and schools accountable for increases in English proficiency and core academic content knowledge of limited English proficient children by requiring—

"(A) demonstrated improvements in the English proficiency of limited English proficient children each fiscal year; and

"(B) adequate yearly progress for limited English proficient children, including immigrant children and youth, as described in section 1111(b)(2)(B); and

"(9) to provide State educational agencies and local educational agencies with the flexibility to implement language instruction educational programs, based on scientifically based research on teaching limited English proficient children, that the agencies believe to be the most effective for teaching English.

"Subpart 1—Grants and Subgrants for English Language Acquisition and Language Enhancement

"SEC. 3111. FORMULA GRANTS TO STATES.

"(a) IN GENERAL.—In the case of each State educational agency having a plan approved by the Secretary for a fiscal year under section 3113, the Secretary shall make a grant for the year to the agency for the purposes specified in subsection (b). The grant shall consist of the allotment determined for the State educational agency under subsection (c).

"(b) USE OF FUNDS.—

"(1) SUBGRANTS TO ELIGIBLE ENTITIES.—The Secretary may make a grant under subsection (a) only if the State educational agency involved agrees to expend at least 95 percent of the State educational agency's allotment under subsection (c) for a fiscal year—

"(A) to award subgrants, from allocations under section 3114, to eligible entities to carry out the activities described in section 3115 (other than subsection (e)); and

"(B) to award subgrants under section 3114(d)(1) to eligible entities that are described in that section to carry out the activities described in section 3115(e).

"(2) STATE ACTIVITIES.—Subject to paragraph (3), each State educational agency receiving a grant under subsection (a) may reserve not more than 5 percent of the agency's allotment under subsection (c) to carry out one or more of the following activities:

"(A) Professional development activities, and other activities, that assist personnel in meeting State and local certification and licensing requirements for teaching limited English proficient children.

"(B) Planning, evaluation, administration, and interagency coordination related to the subgrants referred to in paragraph (1).

"(C) Providing technical assistance and other forms of assistance to eligible entities that are receiving subgrants from a State educational agency under this subpart, including assistance in—

"(i) identifying and implementing language instruction educational programs and curricula that are based on scientifically based research on teaching limited English proficient children;

"(ii) helping limited English proficient children meet the same challenging State academic content and student academic achievement standards as all children are expected to meet;

"(iii) identifying or developing, and implementing, measures of English proficiency; and

"(iv) promoting parental and community participation in programs that serve limited English proficient children.

"(D) Providing recognition, which may include providing financial awards, to subgrantees that have exceeded their annual measurable achievement objectives pursuant to section 3122.

"(3) ADMINISTRATIVE EXPENSES.—From the amount reserved under paragraph (2), a State educational agency may use not more than 60 percent of such amount or $175,000, whichever is greater, for the planning and administrative costs of carrying out paragraphs (1) and (2).

"(c) RESERVATIONS AND ALLOTMENTS.—

"(1) RESERVATIONS.—From the amount appropriated under section 3001(a) for each fiscal year, the Secretary shall reserve—

"(A) 0.5 percent or $5,000,000 of such amount, whichever is greater, for payments to eligible entities that are defined under section 3112(a) for activities, approved by the Secretary, consistent with this subpart;

"(B) 0.5 percent of such amount for payments to outlying areas, to be allotted in accordance with their respective needs for assistance under this subpart, as determined by the Secretary, for activities, approved by the Secretary, consistent with this subpart;

"(C) 6.5 percent of such amount for national activities under sections 3131 and 3303, except that not more than 0.5 percent of such amount shall be reserved for evaluation activities conducted by the Secretary and not more than $2,000,000 of such amount may be reserved for the National Clearinghouse for English Language Acquisition and Language Instruction Educational Programs described in section 3303; and

"(D) such sums as may be necessary to make continuation awards under paragraph (2).

"(2) CONTINUATION AWARDS.—

"(A) IN GENERAL.—Before making allotments to State educational agencies under paragraph (3) for any fiscal year, the Secretary shall use the sums reserved under paragraph (1)(D) to make continuation awards to recipients who received grants or fellowships for the fiscal year preceding any fiscal year described in section 3001(b)(1)(A) under—

"(i) subparts 1 and 3 of part A of title VII (as in effect on the day before the date of enactment of the No Child Left Behind Act of 2001); or

"(ii) subparts 1 and 3 of part B of this title.

"(B) USE OF FUNDS.—The Secretary shall make the awards in order to allow such recipients to receive awards for the complete period of their grants or fellowships under the appropriate subparts.

"(3) STATE ALLOTMENTS.—

"(A) IN GENERAL.—Except as provided in subparagraph (B), from the amount appropriated under section 3001(a)

for each fiscal year that remains after making the reservations under paragraph (1), the Secretary shall allot to each State educational agency having a plan approved under section 3113(c)—

"(i) an amount that bears the same relationship to 80 percent of the remainder as the number of limited English proficient children in the State bears to the number of such children in all States; and

"(ii) an amount that bears the same relationship to 20 percent of the remainder as the number of immigrant children and youth in the State bears to the number of such children and youth in all States.

"(B) MINIMUM ALLOTMENTS.—No State educational agency shall receive an allotment under this paragraph that is less than $500,000.

"(C) REALLOTMENT.—If any State educational agency described in subparagraph (A) does not submit a plan to the Secretary for a fiscal year, or submits a plan (or any amendment to a plan) that the Secretary, after reasonable notice and opportunity for a hearing, determines does not satisfy the requirements of this subpart, the Secretary—

"(i) shall endeavor to make the State's allotment available on a competitive basis to specially qualified agencies within the State to satisfy the requirements of section 3115 (and any additional requirements that the Secretary may impose), consistent with the purposes of such section, and to carry out required and authorized activities under such section; and

"(ii) shall reallot any portion of such allotment remaining after the application of clause (i) to the remaining State educational agencies in accordance with subparagraph (A).

"(D) SPECIAL RULE FOR PUERTO RICO.—The total amount allotted to Puerto Rico for any fiscal year under subparagraph (A) shall not exceed 0.5 percent of the total amount allotted to all States for that fiscal year.

"(4) USE OF DATA FOR DETERMINATIONS.—

"(A) IN GENERAL.—In making State allotments under paragraph (3), for the purpose of determining the number of limited English proficient children in a State and in all States, and the number of immigrant children and youth in a State and in all States, for each fiscal year, the Secretary shall use data that will yield the most accurate, up-to-date numbers of such children and youth.

"(B) SPECIAL RULE.—

"(i) FIRST 2 YEARS.—In making determinations under subparagraph (A) for the 2 fiscal years following the date of enactment of the No Child Left Behind Act of 2001, the Secretary shall determine the number of limited English proficient children in a State and in all States, and the number of immigrant children and youth in a State and in all States, using data available from the Bureau of Census or submitted by the States to the Secretary.

"(ii) SUBSEQUENT YEARS.—For subsequent fiscal years, the Secretary shall determine the number of limited English proficient children in a State and in all States, and the number of immigrant children and youth in a State and in all States, using the more accurate of—

"(I) the data available from the American Community Survey available from the Department of Commerce; or

"(II) the number of children being assessed for English proficiency in a State as required under section 1111(b)(7).

"SEC. 3112. NATIVE AMERICAN AND ALASKA NATIVE CHILDREN IN SCHOOL.

"(a) ELIGIBLE ENTITIES.—For the purpose of carrying out programs under this part for individuals served by elementary schools, secondary schools, and postsecondary schools operated predominately for Native American children (including Alaska Native children), the following shall be considered to be an eligible entity:

"(1) An Indian tribe.

"(2) A tribally sanctioned educational authority.

"(3) A Native Hawaiian or Native American Pacific Islander native language educational organization.

"(4) An elementary school or secondary school that is operated or funded by the Bureau of Indian Affairs, or a consortium of such schools.

"(5) An elementary school or secondary school operated under a contract with or grant from the Bureau of Indian Affairs, in consortium with another such school or a tribal or community organization.

"(6) An elementary school or secondary school operated by the Bureau of Indian Affairs and an institution of higher education, in consortium with an elementary school or secondary school operated under a contract with or grant from the Bureau of Indian Affairs or a tribal or community organization.

"(b) SUBMISSION OF APPLICATION FOR ASSISTANCE.—Notwithstanding any other provision of this part, an entity that is considered to be an eligible entity under subsection (a), and that desires to receive Federal financial assistance under this subpart, shall submit an application to the Secretary.

"(c) SPECIAL RULE.—An eligible entity described in subsection (a) that receives Federal financial assistance pursuant to this section shall not be eligible to receive a subgrant under section 3114.

"SEC. 3113. STATE AND SPECIALLY QUALIFIED AGENCY PLANS.

"(a) PLAN REQUIRED.—Each State educational agency and specially qualified agency desiring a grant under this subpart shall submit a plan to the Secretary at such time, in such manner, and containing such information as the Secretary may require.

"(b) CONTENTS.—Each plan submitted under subsection (a) shall—

"(1) describe the process that the agency will use in making subgrants to eligible entities under section 3114(d)(1);

"(2) describe how the agency will establish standards and objectives for raising the level of English proficiency that are de-

rived from the 4 recognized domains of speaking, listening, reading, and writing, and that are aligned with achievement of the challenging State academic content and student academic achievement standards described in section 1111(b)(1);

"(3) contain an assurance that—

"(A) in the case of a State educational agency, the agency consulted with local educational agencies, education-related community groups and nonprofit organizations, parents, teachers, school administrators, and researchers, in developing the annual measurable achievement objectives described in section 3122;

"(B) in the case of a specially qualified agency, the agency consulted with education-related community groups and nonprofit organizations, parents, teachers, and researchers, in developing the annual measurable achievement objectives described in section 3122;

"(C) the agency will ensure that eligible entities receiving a subgrant under this subpart comply with the requirement in section 1111(b)(7) to annually assess in English children who have been in the United States for 3 or more consecutive years;

"(D) the agency will ensure that eligible entities receiving a subgrant under this subpart annually assess the English proficiency of all limited English proficient children participating in a program funded under this subpart, consistent with section 1111(b)(7);

"(E) in awarding subgrants under section 3114, the agency will address the needs of school systems of all sizes and in all geographic areas, including school systems with rural and urban schools;

"(F) subgrants to eligible entities under section 3114(d)(1) will be of sufficient size and scope to allow such entities to carry out high-quality language instruction educational programs for limited English proficient children; and

"(G) the agency will require an eligible entity receiving a subgrant under this subpart to use the subgrant in ways that will build such recipient's capacity to continue to offer high-quality language instruction educational programs that assist limited English proficient children in meeting challenging State academic content and student academic achievement standards once assistance under this subpart is no longer available;

"(4) describe how the agency will coordinate its programs and activities under this subpart with its other programs and activities under this Act and other Acts, as appropriate;

"(5) describe how the agency will hold local educational agencies, eligible entities, elementary schools, and secondary schools accountable for—

"(A) meeting all annual measurable achievement objectives described in section 3122;

"(B) making adequate yearly progress for limited English proficient children, as described in section 1111(b)(2)(B); and

"(C) achieving the purposes of this part; and

"(6) describe how eligible entities in the State will be given the flexibility to teach limited English proficient children—

"(A) using a language instruction curriculum that is tied to scientifically based research on teaching limited English proficient children and that has been demonstrated to be effective; and

"(B) in the manner the eligible entities determine to be the most effective.

"(c) APPROVAL.—The Secretary, after using a peer review process, shall approve a plan submitted under subsection (a) if the plan meets the requirements of this section.

"(d) DURATION OF PLAN.—

"(1) IN GENERAL.—Each plan submitted by a State educational agency or specially qualified agency and approved under subsection (c) shall—

"(A) remain in effect for the duration of the agency's participation under this part; and

"(B) be periodically reviewed and revised by the agency, as necessary, to reflect changes to the agency's strategies and programs carried out under this part.

"(2) ADDITIONAL INFORMATION.—

"(A) AMENDMENTS.—If the State educational agency or specially qualified agency amends the plan, the agency shall submit such amendment to the Secretary.

"(B) APPROVAL.—The Secretary shall approve such amendment to an approved plan, unless the Secretary determines that the amendment will result in the agency not meeting the requirements, or fulfilling the purposes, of this part.

"(e) CONSOLIDATED PLAN.—A plan submitted under subsection (a) may be submitted as part of a consolidated plan under section 9302.

"(f) SECRETARY ASSISTANCE.—The Secretary shall provide technical assistance, if requested, in the development of English proficiency standards, objectives, and assessments.

"SEC. 3114. WITHIN-STATE ALLOCATIONS.

"(a) IN GENERAL.—After making the reservation required under subsection (d)(1), each State educational agency receiving a grant under section 3111(c)(3) shall award subgrants for a fiscal year by allocating to each eligible entity in the State having a plan approved under section 3116 an amount that bears the same relationship to the amount received under the grant and remaining after making such reservation as the population of limited English proficient children in schools served by the eligible entity bears to the population of limited English proficient children in schools served by all eligible entities in the State.

"(b) LIMITATION.—A State educational agency shall not award a subgrant from an allocation made under subsection (a) if the amount of such subgrant would be less than $10,000.

"(c) REALLOCATION.—Whenever a State educational agency determines that an amount from an allocation made to an eligible entity under subsection (a) for a fiscal year will not be used by the entity for the purpose for which the allocation was made, the agency shall, in accordance with such rules as it determines to be appropriate, reallocate such amount, consistent with such subsection, to

other eligible entities in the State that the agency determines will use the amount to carry out that purpose.

"(d) REQUIRED RESERVATION.—A State educational agency receiving a grant under this subpart for a fiscal year—

"(1) shall reserve not more than 15 percent of the agency's allotment under section 3111(c)(3) to award subgrants to eligible entities in the State that have experienced a significant increase, as compared to the average of the 2 preceding fiscal years, in the percentage or number of immigrant children and youth, who have enrolled, during the fiscal year preceding the fiscal year for which the subgrant is made, in public and nonpublic elementary schools and secondary schools in the geographic areas under the jurisdiction of, or served by, such entities; and

"(2) in awarding subgrants under paragraph (1)—

"(A) shall equally consider eligible entities that satisfy the requirement of such paragraph but have limited or no experience in serving immigrant children and youth; and

"(B) shall consider the quality of each local plan under section 3116 and ensure that each subgrant is of sufficient size and scope to meet the purposes of this part.

"SEC. 3115. SUBGRANTS TO ELIGIBLE ENTITIES.

"(a) PURPOSES OF SUBGRANTS.—A State educational agency may make a subgrant to an eligible entity from funds received by the agency under this subpart only if the entity agrees to expend the funds to improve the education of limited English proficient children, by assisting the children to learn English and meet challenging State academic content and student academic achievement standards. In carrying out activities with such funds, the entity shall use approaches and methodologies based on scientifically based research on teaching limited English proficient children and immigrant children and youth for the following purposes:

"(1) Developing and implementing new language instruction educational programs and academic content instruction programs for such children, and such children and youth, including programs of early childhood education, elementary school programs, and secondary school programs.

"(2) Carrying out highly focused, innovative, locally designed activities to expand or enhance existing language instruction educational programs and academic content instruction programs for such children, and such children and youth.

"(3) Implementing, within an individual school, schoolwide programs for restructuring, reforming, and upgrading all relevant programs, activities, and operations relating to language instruction educational programs and academic content instruction for such children, and such children and youth.

"(4) Implementing, within the entire jurisdiction of a local educational agency, agencywide programs for restructuring, reforming, and upgrading all relevant programs, activities, and operations relating to language instruction educational programs and academic content instruction for such children, and such children and youth.

"(b) ADMINISTRATIVE EXPENSES.—Each eligible entity receiving funds under section 3114(a) for a fiscal year may use not more than 2 percent of such funds for the cost of administering this subpart.

"(c) REQUIRED SUBGRANTEE ACTIVITIES.—An eligible entity receiving funds under section 3114(a) shall use the funds—

"(1) to increase the English proficiency of limited English proficient children by providing high-quality language instruction educational programs that are based on scientifically based research demonstrating the effectiveness of the programs in increasing—

"(A) English proficiency; and

"(B) student academic achievement in the core academic subjects; and

"(2) to provide high-quality professional development to classroom teachers (including teachers in classroom settings that are not the settings of language instruction educational programs), principals, administrators, and other school or community-based organizational personnel, that is—

"(A) designed to improve the instruction and assessment of limited English proficient children;

"(B) designed to enhance the ability of such teachers to understand and use curricula, assessment measures, and instruction strategies for limited English proficient children;

"(C) based on scientifically based research demonstrating the effectiveness of the professional development in increasing children's English proficiency or substantially increasing the subject matter knowledge, teaching knowledge, and teaching skills of such teachers; and

"(D) of sufficient intensity and duration (which shall not include activities such as one-day or short-term workshops and conferences) to have a positive and lasting impact on the teachers' performance in the classroom, except that this subparagraph shall not apply to an activity that is one component of a long-term, comprehensive professional development plan established by a teacher and the teacher's supervisor based on an assessment of the needs of the teacher, the supervisor, the students of the teacher, and any local educational agency employing the teacher.

"(d) AUTHORIZED SUBGRANTEE ACTIVITIES.—Subject to subsection (c), an eligible entity receiving funds under section 3114(a) may use the funds to achieve one of the purposes described in subsection (a) by undertaking one or more of the following activities:

"(1) Upgrading program objectives and effective instruction strategies.

"(2) Improving the instruction program for limited English proficient children by identifying, acquiring, and upgrading curricula, instruction materials, educational software, and assessment procedures.

"(3) Providing—

"(A) tutorials and academic or vocational education for limited English proficient children; and

"(B) intensified instruction.

"(4) Developing and implementing elementary school or secondary school language instruction educational programs that are coordinated with other relevant programs and services.

"(5) Improving the English proficiency and academic achievement of limited English proficient children.

"(6) Providing community participation programs, family literacy services, and parent outreach and training activities to limited English proficient children and their families—

"(A) to improve the English language skills of limited English proficient children; and

"(B) to assist parents in helping their children to improve their academic achievement and becoming active participants in the education of their children.

"(7) Improving the instruction of limited English proficient children by providing for—

"(A) the acquisition or development of educational technology or instructional materials;

"(B) access to, and participation in, electronic networks for materials, training, and communication; and

"(C) incorporation of the resources described in subparagraphs (A) and (B) into curricula and programs, such as those funded under this subpart.

"(8) Carrying out other activities that are consistent with the purposes of this section.

"(e) ACTIVITIES BY AGENCIES EXPERIENCING SUBSTANTIAL INCREASES IN IMMIGRANT CHILDREN AND YOUTH.—

"(1) IN GENERAL.—An eligible entity receiving funds under section 3114(d)(1) shall use the funds to pay for activities that provide enhanced instructional opportunities for immigrant children and youth, which may include—

"(A) family literacy, parent outreach, and training activities designed to assist parents to become active participants in the education of their children;

"(B) support for personnel, including teacher aides who have been specifically trained, or are being trained, to provide services to immigrant children and youth;

"(C) provision of tutorials, mentoring, and academic or career counseling for immigrant children and youth;

"(D) identification and acquisition of curricular materials, educational software, and technologies to be used in the program carried out with funds;

"(E) basic instruction services that are directly attributable to the presence in the school district involved of immigrant children and youth, including the payment of costs of providing additional classroom supplies, costs of transportation, or such other costs as are directly attributable to such additional basic instruction services;

"(F) other instruction services that are designed to assist immigrant children and youth to achieve in elementary schools and secondary schools in the United States, such as programs of introduction to the educational system and civics education; and

"(G) activities, coordinated with community-based organizations, institutions of higher education, private sector entities, or other entities with expertise in working with immigrants, to assist parents of immigrant children and youth by offering comprehensive community services.

"(2) DURATION OF SUBGRANTS.—The duration of a subgrant made by a State educational agency under section 3114(d)(1) shall be determined by the agency in its discretion.

"(f) SELECTION OF METHOD OF INSTRUCTION.—

"(1) IN GENERAL.—To receive a subgrant from a State educational agency under this subpart, an eligible entity shall select one or more methods or forms of instruction to be used in the programs and activities undertaken by the entity to assist limited English proficient children to attain English proficiency and meet challenging State academic content and student academic achievement standards.

"(2) CONSISTENCY.—Such selection shall be consistent with sections 3125 through 3127.

"(g) SUPPLEMENT, NOT SUPPLANT.—Federal funds made available under this subpart shall be used so as to supplement the level of Federal, State, and local public funds that, in the absence of such availability, would have been expended for programs for limited English proficient children and immigrant children and youth and in no case to supplant such Federal, State, and local public funds.

"SEC. 3116. LOCAL PLANS.

"(a) PLAN REQUIRED.—Each eligible entity desiring a subgrant from the State educational agency under section 3114 shall submit a plan to the State educational agency at such time, in such manner, and containing such information as the State educational agency may require.

"(b) CONTENTS.—Each plan submitted under subsection (a) shall—

"(1) describe the programs and activities proposed to be developed, implemented and administered under the subgrant;

"(2) describe how the eligible entity will use the subgrant funds to meet all annual measurable achievement objectives described in section 3122;

"(3) describe how the eligible entity will hold elementary schools and secondary schools receiving funds under this subpart accountable for—

"(A) meeting the annual measurable achievement objectives described in section 3122;

"(B) making adequate yearly progress for limited English proficient children, as described in section 1111(b)(2)(B); and

"(C) annually measuring the English proficiency of limited English proficient children, so that such children served by the programs carried out under this part develop proficiency in English while meeting State academic content and student academic achievement standards as required by section 1111(b)(1);

"(4) describe how the eligible entity will promote parental and community participation in programs for limited English proficient children;

"(5) contain an assurance that the eligible entity consulted with teachers, researchers, school administrators, and parents, and, if appropriate, with education-related community groups and nonprofit organizations, and institutions of higher education, in developing such plan; and

"(6) describe how language instruction educational programs carried out under the subgrant will ensure that limited English proficient children being served by the programs develop English proficiency.

"(c) TEACHER ENGLISH FLUENCY.—Each eligible entity receiving a subgrant under section 3114 shall include in its plan a certification that all teachers in any language instruction educational program for limited English proficient children that is, or will be, funded under this part are fluent in English and any other language used for instruction, including having written and oral communications skills.

"(d) OTHER REQUIREMENTS FOR APPROVAL.—Each local plan shall also contain assurances that—

"(1) each local educational agency that is included in the eligible entity is complying with section 3302 prior to, and throughout, each school year;

"(2) the eligible entity annually will assess the English proficiency of all children with limited English proficiency participating in programs funded under this part;

"(3) the eligible entity has based its proposed plan on scientifically based research on teaching limited English proficient children;

"(4) the eligible entity will ensure that the programs will enable children to speak, read, write, and comprehend the English language and meet challenging State academic content and student academic achievement standards; and

"(5) the eligible entity is not in violation of any State law, including State constitutional law, regarding the education of limited English proficient children, consistent with sections 3126 and 3127.

"Subpart 2—Accountability and Administration

"SEC. 3121. EVALUATIONS.

"(a) IN GENERAL.—Each eligible entity that receives a subgrant from a State educational agency under subpart 1 shall provide such agency, at the conclusion of every second fiscal year during which the subgrant is received, with an evaluation, in a form prescribed by the agency, that includes—

"(1) a description of the programs and activities conducted by the entity with funds received under subpart 1 during the 2 immediately preceding fiscal years;

"(2) a description of the progress made by children in learning the English language and meeting challenging State academic content and student academic achievement standards;

"(3) the number and percentage of children in the programs and activities attaining English proficiency by the end of each school year, as determined by a valid and reliable assessment of English proficiency; and

"(4) a description of the progress made by children in meeting challenging State academic content and student academic achievement standards for each of the 2 years after such children are no longer receiving services under this part.

"(b) USE OF EVALUATION.—An evaluation provided by an eligible entity under subsection (a) shall be used by the entity and the State educational agency—

"(1) for improvement of programs and activities;

"(2) to determine the effectiveness of programs and activities in assisting children who are limited English proficient to attain English proficiency (as measured consistent with sub-

section (d)) and meet challenging State academic content and student academic achievement standards; and

"(3) in determining whether or not to continue funding for specific programs or activities.

"(c) EVALUATION COMPONENTS.—An evaluation provided by an eligible entity under subsection (a) shall—

"(1) provide an evaluation of children enrolled in a program or activity conducted by the entity using funds under subpart 1 (including the percentage of children) who—

"(A) are making progress in attaining English proficiency, including the percentage of children who have achieved English proficiency;

"(B) have transitioned into classrooms not tailored to limited English proficient children, and have a sufficient level of English proficiency to permit them to achieve in English and transition into classrooms not tailored to limited English proficient children;

"(C) are meeting the same challenging State academic content and student academic achievement standards as all children are expected to meet; and

"(D) are not receiving waivers for the reading or language arts assessments under section 1111(b)(3)(C); and

"(2) include such other information as the State educational agency may require.

"(d) EVALUATION MEASURES.—A State shall approve evaluation measures for use under subsection (c) that are designed to assess—

"(1) the progress of children in attaining English proficiency, including a child's level of comprehension, speaking, listening, reading, and writing skills in English;

"(2) student attainment of challenging State student academic achievement standards on assessments described in section 1111(b)(3); and

"(3) progress in meeting the annual measurable achievement objectives described in section 3122.

"(e) SPECIAL RULE FOR SPECIALLY QUALIFIED AGENCIES.—Each specially qualified agency receiving a grant under this part shall provide the evaluations described in subsection (a) to the Secretary subject to the same requirements as apply to eligible entities providing such evaluations to State educational agencies under such subsection.

"SEC. 3122. ACHIEVEMENT OBJECTIVES AND ACCOUNTABILITY.

"(a) ACHIEVEMENT OBJECTIVES.—

"(1) IN GENERAL.—Each State educational agency or specially qualified agency receiving a grant under subpart 1 shall develop annual measurable achievement objectives for limited English proficient children served under this part that relate to such children's development and attainment of English proficiency while meeting challenging State academic content and student academic achievement standards as required by section 1111(b)(1).

"(2) DEVELOPMENT OF OBJECTIVES.—Such annual measurable achievement objectives shall be developed in a manner that—

"(A) reflects the amount of time an individual child has been enrolled in a language instruction educational program; and

"(B) uses consistent methods and measurements to reflect the increases described in subparagraphs (A)(i), (A)(ii), and (B) of paragraph (3).

"(3) CONTENTS.—Such annual measurable achievement objectives—

"(A) shall include—

"(i) at a minimum, annual increases in the number or percentage of children making progress in learning English;

"(ii) at a minimum, annual increases in the number or percentage of children attaining English proficiency by the end of each school year, as determined by a valid and reliable assessment of English proficiency consistent with section 1111(b)(7); and

"(iii) making adequate yearly progress for limited English proficient children as described in section 1111(b)(2)(B); and

"(B) at the discretion of the agency, may include the number or percentage of children not receiving waivers for reading or language arts assessments under section 1111(b)(3)(C), but this achievement objective shall not be applied to an eligible entity that, in a given school year—

"(i) has experienced a large increase in limited English proficient children or immigrant children and youth;

"(ii) enrolls a statistically significant number of immigrant children and youth from countries where such children and youth had little or no access to formal education; or

"(iii) has a statistically significant number of immigrant children and youth who have fled from war or natural disaster.

"(b) ACCOUNTABILITY.—

"(1) FOR STATES.—Each State educational agency receiving a grant under subpart 1 shall hold eligible entities receiving a subgrant under such subpart accountable for meeting the annual measurable achievement objectives under subsection (a), including making adequate yearly progress for limited English proficient children.

"(2) IMPROVEMENT PLAN.—If a State educational agency determines, based on the annual measurable achievement objectives described in subsection (a), that an eligible entity has failed to make progress toward meeting such objectives for 2 consecutive years, the agency shall require the entity to develop an improvement plan that will ensure that the entity meets such objectives. The improvement plan shall specifically address the factors that prevented the entity from achieving such objectives.

"(3) TECHNICAL ASSISTANCE.—During the development of the improvement plan described in paragraph (2), and throughout its implementation, the State educational agency shall—

"(A) provide technical assistance to the eligible entity;

"(B) provide technical assistance, if applicable, to schools served by such entity under subpart 1 that need assistance to enable the schools to meet the annual measurable achievement objectives described in subsection (a);

"(C) develop, in consultation with the entity, professional development strategies and activities, based on scientifically based research, that the agency will use to meet such objectives;

"(D) require such entity to utilize such strategies and activities; and

"(E) develop, in consultation with the entity, a plan to incorporate strategies and methodologies, based on scientifically based research, to improve the specific program or method of instruction provided to limited English proficient children.

"(4) ACCOUNTABILITY.—If a State educational agency determines that an eligible entity has failed to meet the annual measurable achievement objectives described in subsection (a) for 4 consecutive years, the agency shall—

"(A) require such entity to modify the entity's curriculum, program, and method of instruction; or

"(B)(i) make a determination whether the entity shall continue to receive funds related to the entity's failure to meet such objectives; and

"(ii) require such entity to replace educational personnel relevant to the entity's failure to meet such objectives.

"(c) SPECIAL RULE FOR SPECIALLY QUALIFIED AGENCIES.—The Secretary shall hold specially qualified agencies receiving a grant under this subpart accountable for meeting the annual measurable achievement objectives described in subsection (a) in the same manner as State educational agencies hold eligible entities accountable under subsection (b).

"SEC. 3123. REPORTING REQUIREMENTS.

"(a) STATES.—Based upon the evaluations provided to a State educational agency under section 3121, each such agency that receives a grant under this part shall prepare and submit every second year to the Secretary a report on programs and activities carried out by the State educational agency under this part and the effectiveness of such programs and activities in improving the education provided to children who are limited English proficient.

"(b) SECRETARY.—Every second year, the Secretary shall prepare and submit to the Committee on Education and the Workforce of the House of Representatives and the Committee on Health, Education, Labor, and Pensions of the Senate a report—

"(1) on programs and activities carried out to serve limited English proficient children under this part, and the effectiveness of such programs and activities in improving the academic achievement and English proficiency of children who are limited English proficient;

"(2) on the types of language instruction educational programs used by local educational agencies or eligible entities receiving funding under this part to teach limited English proficient children;

"(3) containing a critical synthesis of data reported by eligible entities to States under section 3121(a);

"(4) containing a description of technical assistance and other assistance provided by State educational agencies under section 3111(b)(2)(C);

"(5) containing an estimate of the number of certified or licensed teachers working in language instruction educational programs and educating limited English proficient children, and an estimate of the number of such teachers that will be needed for the succeeding 5 fiscal years;

"(6) containing the major findings of scientifically based research carried out under this part;

"(7) containing the number of programs or activities, if any, that were terminated because the entities carrying out the programs or activities were not able to reach program goals;

"(8) containing the number of limited English proficient children served by eligible entities receiving funding under this part who were transitioned out of language instruction educational programs funded under this part into classrooms where instruction is not tailored for limited English proficient children; and

"(9) containing other information gathered from the evaluations from specially qualified agencies and other reports submitted to the Secretary under this title when applicable.

"SEC. 3124. COORDINATION WITH RELATED PROGRAMS.

"In order to maximize Federal efforts aimed at serving the educational needs of children of limited English proficiency, the Secretary shall coordinate and ensure close cooperation with other entities carrying out programs serving language-minority and limited English proficient children that are administered by the Department and other agencies.

"SEC. 3125. RULES OF CONSTRUCTION.

"Nothing in this part shall be construed—

"(1) to prohibit a local educational agency from serving limited English proficient children simultaneously with children with similar educational needs, in the same educational settings where appropriate;

"(2) to require a State or a local educational agency to establish, continue, or eliminate any particular type of instructional program for limited English proficient children; or

"(3) to limit the preservation or use of Native American languages.

"SEC. 3126. LEGAL AUTHORITY UNDER STATE LAW.

"Nothing in this part shall be construed to negate or supersede State law, or the legal authority under State law of any State agency, State entity, or State public official, over programs that are under the jurisdiction of the State agency, entity, or official.

"SEC. 3127. CIVIL RIGHTS.

"Nothing in this part shall be construed in a manner inconsistent with any Federal law guaranteeing a civil right.

"SEC. 3128. PROGRAMS FOR NATIVE AMERICANS AND PUERTO RICO.

"Notwithstanding any other provision of this part, programs authorized under this part that serve Native American (including

Native American Pacific Islander) children and children in the Commonwealth of Puerto Rico may include programs of instruction, teacher training, curriculum development, evaluation, and assessment designed for Native American children learning and studying Native American languages and children of limited Spanish proficiency, except that an outcome of programs serving such children shall be increased English proficiency among such children.

"SEC. 3129. PROHIBITION.

"In carrying out this part, the Secretary shall neither mandate nor preclude the use of a particular curricular or pedagogical approach to educating limited English proficient children.

"Subpart 3—National Activities

"SEC. 3131. NATIONAL PROFESSIONAL DEVELOPMENT PROJECT.

"The Secretary shall use funds made available under section 3111(c)(1)(C) to award grants on a competitive basis, for a period of not more than 5 years, to institutions of higher education (in consortia with State educational agencies or local educational agencies) to provide for professional development activities that will improve classroom instruction for limited English proficient children and assist educational personnel working with such children to meet high professional standards, including standards for certification and licensure as teachers who work in language instruction educational programs or serve limited English proficient children. Grants awarded under this subsection may be used—

"(1) for preservice professional development programs that will assist local schools and institutions of higher education to upgrade the qualifications and skills of educational personnel who are not certified or licensed, especially educational paraprofessionals;

"(2) for the development of curricula appropriate to the needs of the consortia participants involved; and

"(3) in conjunction with other Federal need-based student financial assistance programs, for financial assistance, and costs related to tuition, fees, and books for enrolling in courses required to complete the degree involved, to meet certification or licensing requirements for teachers who work in language instruction educational programs or serve limited English proficient children.

"Subpart 4—Definitions

"SEC. 3141. ELIGIBLE ENTITY.

"In this part, the term 'eligible entity' means—

"(1) one or more local educational agencies; or

"(2) one or more local educational agencies, in collaboration with an institution of higher education, community-based organization, or State educational agency.

"PART B—IMPROVING LANGUAGE INSTRUCTION EDUCATIONAL PROGRAMS

"SEC. 3201. SHORT TITLE.

"This part may be cited as the 'Improving Language Instruction Educational Programs For Academic Achievement Act'.

"SEC. 3202. PURPOSE.

"The purpose of this part is to help ensure that limited English proficient children master English and meet the same rigorous standards for academic achievement as all children are expected to meet, including meeting challenging State academic content and student academic achievement standards by—

"(1) promoting systemic improvement and reform of, and developing accountability systems for, educational programs serving limited English proficient children;

"(2) developing language skills and multicultural understanding;

"(3) developing the English proficiency of limited English proficient children and, to the extent possible, the native language skills of such children;

"(4) providing similar assistance to Native Americans with certain modifications relative to the unique status of Native American languages under Federal law;

"(5) developing data collection and dissemination, research, materials, and technical assistance that are focused on school improvement for limited English proficient children; and

"(6) developing programs that strengthen and improve the professional training of educational personnel who work with limited English proficient children.

"SEC. 3203. NATIVE AMERICAN CHILDREN IN SCHOOL.

"(a) ELIGIBLE ENTITIES.—For the purpose of carrying out programs under this part for individuals served by elementary schools, secondary schools, and postsecondary schools operated predominately for Native American (including Alaska Native) children and youth, an Indian tribe, a tribally sanctioned educational authority, a Native Hawaiian or Native American Pacific Islander native language education organization, or an elementary school or secondary school that is operated or funded by the Bureau of Indian Affairs shall be considered to be a local educational agency.

"(b) APPLICATION.—Notwithstanding any other provision of this part, each tribe, authority, organization, or school described in subsection (a) shall submit any application for assistance under this part directly to the Secretary along with timely comments on the need for the program proposed in the application.

"SEC. 3204. RESIDENTS OF THE TERRITORIES AND FREELY ASSOCIATED STATES.

"For the purpose of carrying out programs under this part in the outlying areas, the term 'local educational agency' includes public institutions or agencies whose mission is the preservation and maintenance of native languages.

"Subpart 1—Program Development and Enhancement

"SEC. 3211. FINANCIAL ASSISTANCE FOR LANGUAGE INSTRUCTION EDUCATIONAL PROGRAMS.

"The purpose of this subpart is to assist local educational agencies, institutions of higher education, and community-based organizations, through the grants authorized under sections 3212 and 3213—

"(1) to develop and enhance their capacity to provide high-quality instruction through language instruction educational

programs or special alternative instruction programs to limited English proficient children; and

"(2) to help such children—

"(A) develop English proficiency and, to the extent possible, proficiency in their native language; and

"(B) meet the same challenging State academic content and student academic achievement standards as all children are expected to meet under section 1111(b)(1).

"SEC. 3212. PROGRAM ENHANCEMENT ACTIVITIES.

"(a) PROGRAM AUTHORIZED.—

"(1) AUTHORITY.—

"(A) IN GENERAL.—The Secretary is authorized to award grants to eligible entities having applications approved under section 3214 to enable such entities to provide innovative, locally designed, high-quality instruction to limited English proficient children, by expanding, developing, or strengthening language instruction educational programs or special alternative instruction programs.

"(B) PERIOD.—Each grant awarded under this section shall be awarded for a period of 3 years.

"(2) AUTHORIZED ACTIVITIES.—

"(A) MANDATORY ACTIVITIES.—Grants awarded under this section shall be used for—

"(i) developing, implementing, expanding, or enhancing comprehensive preschool, elementary, or secondary education programs for limited English proficient children, that are—

"(I) aligned with State and local academic content and student academic achievement standards, and local school reform efforts; and

"(II) coordinated with related academic services for children;

"(ii) providing high-quality professional development to classroom teachers, administrators, and other school or community-based organization personnel to improve the instruction and assessment of limited English proficient children; and

"(iii) annually assessing the English proficiency of all limited English proficient children served by activities carried out under this section.

"(B) PERMISSIBLE ACTIVITIES.—Grants awarded under this section may be used for—

"(i) implementing programs to upgrade the reading and other academic skills of limited English proficient children;

"(ii) developing accountability systems to monitor the academic progress of limited English proficient and formerly limited English proficient children;

"(iii) implementing family education programs and parent outreach and training activities designed to assist parents to become active participants in the education of their children;

"(iv) improving the instruction programs for limited English proficient children by identifying, acquiring, and applying effective curricula, instruction mate-

rials (including materials provided through technology), and assessments that are all aligned with State and local standards;

"(v) providing intensified instruction, including tutorials and academic, or vocational and technical, training, for limited English proficient children;

"(vi) adapting best practice models for meeting the needs of limited English proficient children;

"(vii) assisting limited English proficient children with disabilities;

"(viii) implementing applied learning activities such as service learning to enhance and support comprehensive elementary and secondary language instruction educational programs;

"(ix) acquiring or developing education technology or instruction materials for limited English proficient children, including materials in languages other than English;

"(x) participating in electronic networks for materials, training, and communication, and incorporating information derived from such participation in curricula and programs; and

"(xi) carrying out such other activities related to the purpose of this part as the Secretary may approve.

"(b) PRIORITY.—In awarding grants under this section, the Secretary may give priority to an entity that—

"(1) serves a school district—

"(A) that has a total district enrollment that is less than 10,000 students; or

"(B) with a large percentage or number of limited English proficient children; and

"(2) has limited or no experience in serving limited English proficient children.

"(c) ELIGIBLE ENTITY.—In this section, the term 'eligible entity' means—

"(1) one or more local educational agencies;

"(2) one or more local educational agencies in collaboration with an institution of higher education, community-based organization, or State educational agency; or

"(3) a community-based organization or an institution of higher education that has an application approved by the local educational agency to participate in programs carried out under this subpart by enhancing early childhood education or family education programs or conducting instruction programs that supplement the educational services provided by a local educational agency.

"SEC. 3213. COMPREHENSIVE SCHOOL AND SYSTEMWIDE IMPROVEMENT ACTIVITIES.

"(a) PROGRAM AUTHORIZED.—

"(1) AUTHORITY.—The Secretary is authorized to award grants to eligible entities having applications approved under section 3214 to enable such entities to develop and implement language instruction educational programs, and improve, reform, or upgrade programs or operations that serve significant percentages or numbers of limited English proficient children.

"(2) MANDATORY ACTIVITIES.—Grants awarded under this section shall be used for—

"(A) improving instruction programs for limited English proficient children by acquiring and upgrading curricula and related instruction materials;

"(B) aligning the activities carried out under this section with State and local school reform efforts;

"(C) providing training, aligned with State and local standards, to school personnel and participating community-based organization personnel to improve the instruction and assessment of limited English proficient children;

"(D) developing and implementing plans, coordinated with plans for programs carried out under title II of the Higher Education Act of 1965 (where applicable), and title II of this Act (where applicable), to recruit teachers trained to serve limited English proficient children;

"(E) implementing culturally and linguistically appropriate family education programs, or parent outreach and training activities, that are designed to assist parents of limited English proficient children to become active participants in the education of their children;

"(F) coordinating the activities carried out under this section with other programs, such as programs carried out under this title;

"(G) providing services to meet the full range of the educational needs of limited English proficient children;

"(H) annually assessing the English proficiency of all limited English proficient children served by the activities carried out under this section; and

"(I) developing or improving accountability systems to monitor the academic progress of limited English proficient children.

"(3) PERMISSIBLE ACTIVITIES.—Grants awarded under this section may be used for—

"(A) implementing programs to upgrade reading and other academic skills of limited English proficient children;

"(B) developing and using educational technology to improve learning, assessments, and accountability to meet the needs of limited English proficient children;

"(C) implementing scientifically based research programs to meet the needs of limited English proficient children;

"(D) providing tutorials and academic, or vocational and technical, training for limited English proficient children;

"(E) developing and implementing State and local academic content and student academic achievement standards for learning English as a second language, as well as for learning other languages;

"(F) developing and implementing programs for limited English proficient children to meet the needs of changing populations of such children;

"(G) implementing policies to ensure that limited English proficient children have access to other education

programs (other than programs designed to address limited English proficiency);

"(H) assisting limited English proficient children with disabilities;

"(I) developing and implementing programs to help children become proficient in English and other languages;

"(J) acquiring or developing education technology or instruction materials for limited English proficient children, including materials in languages other than English;

"(K) participating in electronic networks for materials, training, and communication and incorporating information derived from such participation in curricula and programs; and

"(L) carrying out such other activities related to the purpose of this part as the Secretary may approve.

"(4) SPECIAL RULE.—

"(A) PLANNING.—A recipient of a grant under this section, before carrying out activities under this section, shall plan, train personnel, develop curricula, and acquire or develop materials, but shall not use funds made available under this section for planning purposes for more than 45 days.

"(B) COMMENCEMENT OF ACTIVITIES.— The recipient shall commence carrying out activities under this section not later than the later of—

"(i) the beginning of the first school year that begins after the grant is received; or

"(ii) 30 days after the date of receipt of the grant.

"(b) AVAILABILITY OF APPROPRIATIONS.—

"(1) RESERVATION OF FUNDS FOR CONTINUED PAYMENTS.—

"(A) COVERED GRANT.—In this paragraph, the term 'covered grant' means a grant—

"(i) that was awarded under section 7112, 7113, 7114, or 7115 (as such sections were in effect on the day before the date of enactment of the No Child Left Behind Act of 2001); and

"(ii) for which the grant period has not ended.

"(B) RESERVATION.—For any fiscal year that is part of the grant period of a covered grant, the Secretary shall reserve funds for the payments described in subparagraph (C) from the amount appropriated for the fiscal year under section 3001(a) and made available for carrying out this section.

"(C) PAYMENTS.—The Secretary shall continue to make grant payments to each entity that received a covered grant, in accordance with the terms of that grant, for the duration of the grant period of the grant, to carry out activities in accordance with the appropriate section described in subparagraph (A)(i).

"(2) AVAILABILITY.—Of the amount appropriated for a fiscal year under section 3001(a) that is made available to carry out this section, and that remains after the Secretary reserves funds for payments under paragraph (1)—

"(A) not less than 1/3 of the remainder shall be used to award grants to eligible entities for activities carried out within an entire school district; and

"(B) not less than 2/3 of the remainder shall be used to award grants to eligible entities for activities carried out within individual schools.

"(c) PRIORITY.—In awarding grants under this section, the Secretary shall give priority to an applicant that—

"(1) experiences a significant increase in the number or percentage of limited English proficient children enrolled in the applicant's programs and has limited or no experience in serving limited English proficient children;

"(2) is a local educational agency that serves a school district that has a total district enrollment that is less than 10,000 students;

"(3) demonstrates that the applicant has a proven track record of success in helping limited English proficient children learn English and meet high academic standards; or

"(4) serves a school district with a large number or percentage of limited English proficient children.

"(d) ELIGIBLE ENTITIES.—In this section, the term 'eligible entity' means—

"(1) one or more local educational agencies; or

"(2) one or more local educational agencies, in collaboration with an institution of higher education, community-based organization, or State educational agency.

"SEC. 3214. APPLICATIONS.

"(a) IN GENERAL.—

"(1) SECRETARY.—To receive a grant under this subpart, an eligible entity described in section 3212 or 3213 shall submit an application to the Secretary at such time, in such form, and containing such information as the Secretary may require.

"(2) STATE EDUCATIONAL AGENCY.—The eligible entity, with the exception of schools funded by the Bureau of Indian Affairs, shall submit a copy of the application submitted by the entity under this section to the State educational agency.

"(b) STATE REVIEW AND COMMENTS.—

"(1) DEADLINE.—The State educational agency, not later than 45 days after receipt of an application under this section, shall review the application and submit the written comments of the agency regarding the application to the Secretary.

"(2) COMMENTS.—

"(A) SUBMISSION OF COMMENTS.—Regarding applications submitted under this subpart, the State educational agency shall—

"(i) submit to the Secretary written comments regarding all such applications; and

"(ii) submit to each eligible entity the comments that pertain to such entity.

"(B) SUBJECT.—For purposes of this subpart, such comments shall address—

"(i) how the activities to be carried out under the grant will further the academic achievement and English proficiency of limited English proficient children served under the grant; and

"(ii) how the grant application is consistent with the State plan required under section 1111.

"(c) ELIGIBLE ENTITY COMMENTS.—An eligible entity may submit to the Secretary comments that address the comments submitted by the State educational agency.

"(d) COMMENT CONSIDERATION.—In making grants under this subpart, the Secretary shall take into consideration comments made by State educational agencies.

"(e) WAIVER.—Notwithstanding subsection (b), the Secretary is authorized to waive the review requirement specified in subsection (b) if a State educational agency can demonstrate that such review requirement may impede such agency's ability to fulfill the requirements of participation in the program authorized in section 3224, particularly such agency's ability to carry out data collection efforts and such agency's ability to provide technical assistance to local educational agencies not receiving funds under this subpart.

"(f) REQUIRED DOCUMENTATION.—Such application shall include documentation that—

"(1) the applicant has the qualified personnel required to develop, administer, and implement the program proposed in the application; and

"(2) the leadership personnel of each school participating in the program have been involved in the development and planning of the program in the school.

"(g) CONTENTS.—

"(1) IN GENERAL.—An application for a grant under this subpart shall contain the following:

"(A) A description of the need for the proposed program, including—

"(i) data on the number of limited English proficient children in the school or school district to be served;

"(ii) information on the characteristics of the children, including—

"(I) the native languages of the children;

"(II) the proficiency of the children in English and their native language;

"(III) achievement data (current as of the date of submission of the application) for the limited English proficient children in—

"(aa) reading or language arts (in English and in the native language, if applicable); and

"(bb) mathematics;

"(IV) a comparison of that data for the children with that data for the English proficient peers of the children; and

"(V) the previous schooling experiences of the children;

"(iii) the professional development needs of the instruction personnel who will provide services for the limited English proficient children under the proposed program; and

"(iv) how the services provided through the grant will supplement the basic services provided to limited English proficient children.

"(B) A description of the program to be implemented and how such program's design—

"(i) relates to the linguistic and academic needs of the limited English proficient children to be served;

"(ii) will ensure that the services provided through the program will supplement the basic services the applicant provides to limited English proficient children;

"(iii) will ensure that the program is coordinated with other programs under this Act and other Acts;

"(iv) involves the parents of the limited English proficient children to be served;

"(v) ensures accountability in achieving high academic standards; and

"(vi) promotes coordination of services for the limited English proficient children to be served and their families.

"(C) A description, if appropriate, of the applicant's collaborative activities with institutions of higher education, community-based organizations, local educational agencies or State educational agencies, private schools, nonprofit organizations, or businesses in carrying out the proposed program.

"(D) An assurance that the applicant will not reduce the level of State and local funds that the applicant expends for language instruction educational programs or special alternative instruction programs if the applicant receives an award under this subpart.

"(E) An assurance that the applicant will employ teachers in the proposed program who, individually or in combination, are proficient in—

"(i) English, with respect to written, as well as oral, communication skills; and

"(ii) the native language of the majority of the children who the teachers teach, if instruction in the program is in the native language as well as English.

"(F) A budget for the grant funds.

"(2) ADDITIONAL INFORMATION.—Each application for a grant under section 3213 shall—

"(A) describe—

"(i) current services (as of the date of submission of the application) the applicant provides to limited English proficient children;

"(ii) what services limited English proficient children will receive under the grant that such children will not otherwise receive;

"(iii) how funds received under this subpart will be integrated with all other Federal, State, local, and private resources that may be used to serve limited English proficient children;

"(iv) specific achievement and school retention goals for the children to be served by the proposed program and how progress toward achieving such goals will be measured; and

"(v) the current family education programs (as of the date of submission of the application) of the eligible entity, if applicable; and

"(B) provide assurances that—

"(i) the program funded with the grant will be integrated with the overall educational program of the children served through the proposed program; and

"(ii) the application has been developed in consultation with parents and other representatives of the children to be served in such program.

"(h) APPROVAL OF APPLICATIONS.—An application for a grant under this subpart may be approved only if the Secretary determines that—

"(1) the program proposed in the application will use qualified personnel, including personnel who are proficient in the language or languages used for instruction;

"(2) in designing the program, the eligible entity has, after consultation with appropriate private school officials—

"(A) taken into account the needs of children in nonprofit private elementary schools and secondary schools; and

"(B) in a manner consistent with the number of such children enrolled in such schools in the area to be served, whose educational needs are of the type and whose language, and grade levels are of a similar type to the needs, language, and grade levels that the program is intended to address, provided for the participation of such children on a basis comparable to the basis on which public school children participate;

"(3)(A) student evaluation and assessment procedures in the program are valid and reliable for limited English proficient children; and

"(B) limited English proficient children with disabilities will be identified and served through the program in accordance with the requirements of the Individuals with Disabilities Education Act;

"(4) Federal funds made available for the program will be used to supplement the State and local funds that, in the absence of such Federal funds, would be expended for special programs for children of limited English proficient individuals, and in no case to supplant such State and local funds, except that nothing in this paragraph shall be construed to preclude a local educational agency from using funds made available under this subpart—

"(A) for activities carried out under an order of a Federal or State court respecting services to be provided to such children; or

"(B) to carry out a plan approved by the Secretary as adequate under title VI of the Civil Rights Act of 1964 with respect to services to be provided to such children;

"(5)(A) the assistance provided through the grant will contribute toward building the capacity of the eligible entity to provide a program on a regular basis, similar to the proposed program, that will be of sufficient size, scope, and quality to prom-

ise significant improvement in the education of limited English proficient children; and

"(B) the eligible entity will have the resources and commitment to continue the program of sufficient size, scope, and quality when assistance under this subpart is reduced or no longer available; and

"(6) the eligible entity will use State and national dissemination sources for program design and dissemination of results and products.

"(i) CONSIDERATION.—In determining whether to approve an application under this subpart, the Secretary shall give consideration to—

"(1) the degree to which the program for which assistance is sought involves the collaborative efforts of institutions of higher education, community-based organizations, the appropriate local educational agency and State educational agency, or businesses; and

"(2) whether the application provides for training for personnel participating in, or preparing to participate in, a program that will assist such personnel in meeting State and local certification requirements.

"SEC. 3215. CAPACITY BUILDING.

"Each recipient of a grant under this subpart shall use the grant in ways that will build such recipient's capacity to continue to offer high-quality language instruction educational programs and special alternative instruction programs to limited English proficient children after Federal assistance is reduced or eliminated.

"SEC. 3216. PROGRAMS FOR NATIVE AMERICANS AND PUERTO RICO.

"Notwithstanding any other provision of this part, programs authorized under this subpart that serve Native American (including Native American Pacific Islander) children and children in the Commonwealth of Puerto Rico may include programs of instruction, teacher training, curriculum development, evaluation, and assessment designed for Native American children learning and studying Native American languages and children of limited Spanish proficiency, except that an outcome of programs serving such children shall be increased English proficiency among such children.

"SEC. 3217. EVALUATIONS.

"(a) EVALUATION.—Each recipient of funds under this subpart for a program shall annually conduct an evaluation of the program and submit to the Secretary a report concerning the evaluation, in the form prescribed by the Secretary.

"(b) USE OF EVALUATION.—Such evaluation shall be used by the grant recipient—

"(1) for program improvement;

"(2) to further define the program's goals and objectives; and

"(3) to determine program effectiveness.

"(c) EVALUATION REPORT COMPONENTS.—In preparing the evaluation reports, the recipient shall—

"(1) use the data provided in the application submitted by the recipient under section 3214 as baseline data against which to report academic achievement and gains in English proficiency for children in the program;

"(2) disaggregate the results of the evaluation by gender, native languages spoken by children, socioeconomic status, and whether the children have disabilities;

"(3) include data on the progress of the recipient in achieving the objectives of the program, including data demonstrating the extent to which children served by the program are meeting the challenging State academic content and student academic achievement standards, and including data comparing limited English proficient children with English proficient children with regard to school retention and academic achievement concerning—

"(A) reading and language arts;

"(B) English proficiency;

"(C) mathematics; and

"(D) the native language of the children, if the program develops native language proficiency;

"(4) include information on the extent that professional development activities carried out through the program have resulted in improved classroom practices and improved student academic achievement;

"(5) include a description of how the activities carried out through the program are coordinated and integrated with the other Federal, State, or local programs serving limited English proficient children; and

"(6) include such other information as the Secretary may require.

"SEC. 3218. CONSTRUCTION.

"Nothing in this subpart shall be construed to prohibit a local educational agency from serving limited English proficient children simultaneously with children with similar educational needs, in the same educational settings where appropriate.

"Subpart 2—Research, Evaluation, and Dissemination

"SEC. 3221. AUTHORITY.

"(a) IN GENERAL.—The Secretary is authorized to conduct data collection, dissemination, research, and ongoing program evaluation activities in accordance with the provisions of this subpart for the purpose of improving language instruction educational programs and special alternative instruction programs for limited English proficient children.

"(b) COMPETITIVE AWARDS.—Research and program evaluation activities carried out under this subpart shall be supported through competitive grants, contracts, and cooperative agreements awarded to institutions of higher education, nonprofit organizations, State educational agencies, and local educational agencies.

"(c) ADMINISTRATION.—The Secretary shall conduct data collection, dissemination, and ongoing program evaluation activities authorized by this subpart through the Office of English Language Acquisition, Language Enhancement, and Academic Achievement for Limited English Proficient Students.

"SEC. 3222. RESEARCH.

"(a) ADMINISTRATION.—The Secretary shall conduct research activities authorized by this subpart through the Office of Educational Research and Improvement in coordination and collaboration with

the Office of English Language Acquisition, Language Enhancement, and Academic Achievement for Limited English Proficient Students.

"(b) REQUIREMENTS.—Such research activities—

"(1) shall have a practical application to teachers, counselors, paraprofessionals, school administrators, parents, and others involved in improving the education of limited English proficient children and their families;

"(2) may include research on effective instruction practices for multilingual classes, and on effective instruction strategies to be used by a teacher or other staff member who does not know the native language of a limited English proficient child in the teacher's or staff member's classroom;

"(3) may include establishing (through the National Center for Education Statistics in consultation with experts in second language acquisition and scientifically based research on teaching limited English proficient children) a common definition of 'limited English proficient child' for purposes of national data collection; and

"(4) shall be administered by individuals with expertise in second language acquisition, scientifically based research on teaching limited English proficient children, and the needs of limited English proficient children and their families.

"(c) FIELD-INITIATED RESEARCH.—

"(1) IN GENERAL.—The Secretary shall reserve not less than 5 percent of the funds made available to carry out this section for field-initiated research conducted by recipients of grants under subpart 1 or this subpart who have received such grants within the previous 5 years. Such research may provide for longitudinal studies of limited English proficient children or teachers who serve such children, monitoring the education of such children from entry into language instruction educational programs through secondary school completion.

"(2) APPLICATIONS.—An applicant for assistance under this subsection may submit an application for such assistance to the Secretary at the same time as the applicant submits another application under subpart 1 or this subpart. The Secretary shall complete a review of such applications on a timely basis to allow the activities carried out under research and program grants to be coordinated when recipients are awarded 2 or more of such grants.

"(d) CONSULTATION.—The Secretary shall consult with agencies, organizations, and individuals that are engaged in research and practice on the education of limited English proficient children, language instruction educational programs, or related research, to identify areas of study and activities to be funded under this section.

"(e) DATA COLLECTION.—The Secretary shall provide for the collection of data on limited English proficient children as part of the data systems operated by the Department.

"SEC. 3223. ACADEMIC EXCELLENCE AWARDS.

"(a) AUTHORITY.—The Secretary may make grants to State educational agencies to assist the agencies in recognizing local educational agencies and other public and nonprofit entities whose programs have—

"(1) demonstrated significant progress in assisting limited English proficient children to learn English according to age appropriate and developmentally appropriate standards; and

"(2) demonstrated significant progress in assisting limited English proficient children to meet, according to age appropriate and developmentally appropriate standards, the same challenging State academic content and student academic achievement standards as all children are expected to meet.

"(b) APPLICATIONS.—A State educational agency desiring a grant under this section shall include an application for such grant in the application submitted by the agency under section 3224(e).

"SEC. 3224. STATE GRANT PROGRAM.

"(a) STATE GRANT PROGRAM.—The Secretary is authorized to make an award to a State educational agency that demonstrates, to the satisfaction of the Secretary, that such agency, through such agency's programs and other Federal education programs, effectively provides for the education of limited English proficient children within the State.

"(b) PAYMENTS.—The amount paid to a State educational agency under subsection (a) shall not exceed 5 percent of the total amount awarded to local educational agencies and entities within the State under subpart 1 for the previous fiscal year, except that in no case shall the amount paid by the Secretary to any State educational agency under this subsection for any fiscal year be less than $100,000.

"(c) USE OF FUNDS.—

"(1) IN GENERAL.—A State educational agency shall use funds awarded under this section—

"(A) to assist local educational agencies in the State with activities that—

"(i) consist of program design, capacity building, assessment of student academic achievement, program evaluation, and development of data collection and accountability systems for limited English proficient children; and

"(ii) are aligned with State reform efforts; and

"(B) to collect data on the State's limited English proficient populations and document the services available to all such populations.

"(2) TRAINING.—The State educational agency may also use funds provided under this section for the training of State educational agency personnel in educational issues affecting limited English proficient children.

"(3) SPECIAL RULE.—Recipients of funds under this section shall not restrict the provision of services under this section to federally funded programs.

"(d) STATE CONSULTATION.—A State educational agency receiving funds under this section shall consult with recipients of grants under this subpart and other individuals or organizations involved in the development or operation of programs serving limited English proficient children to ensure that such funds are used in a manner consistent with the requirements of this subpart.

"(e) APPLICATIONS.—A State educational agency desiring to receive funds under this section shall submit an application to the

Secretary at such time, in such form, and containing such information and assurances as the Secretary may require.

"(f) SUPPLEMENT, NOT SUPPLANT.—Federal funds made available under this section for any fiscal year shall be used by the State educational agency to supplement and, to the extent practical, to increase the State funds that, in the absence of such Federal funds, would be made available for the purposes described in this section, and in no case to supplant such State funds.

"(g) REPORT TO THE SECRETARY.—A State educational agency receiving an award under this section shall provide for the annual submission of a summary report to the Secretary describing such State's use of the funds made available through the award.

"SEC. 3225. INSTRUCTION MATERIALS DEVELOPMENT.

"(a) IN GENERAL.—The Secretary may make grants for the development, publication, and dissemination of high-quality instruction materials—

"(1) in Native American languages (including Native Hawaiian languages and the language of Native American Pacific Islanders), and the language of natives of the outlying areas, for which instruction materials are not readily available; and

"(2) in other low-incidence languages in the United States for which instruction materials are not readily available.

"(b) PRIORITY.—In making the grants, the Secretary shall give priority to applicants for the grants who propose—

"(1) to develop instruction materials in languages indigenous to the United States or the outlying areas; and

"(2) to develop and evaluate materials, in collaboration with entities carrying out activities assisted under subpart 1 and this subpart, that are consistent with challenging State academic content and student academic achievement standards.

"Subpart 3—Professional Development

"SEC. 3231. PROFESSIONAL DEVELOPMENT GRANTS.

"(a) PURPOSE.—The purpose of this section is to provide assistance to prepare educators to improve educational services for limited English proficient children by—

"(1) supporting professional development programs and activities to prepare teachers, pupil service personnel, administrators, and other educational personnel working in language instruction educational programs to provide effective services to limited English proficient children;

"(2) incorporating curricula and resources concerning appropriate and effective instruction and assessment methodologies specific to limited English proficient children into preservice and inservice professional development programs;

"(3) upgrading the qualifications and skills of non-certified educational personnel, including paraprofessionals, to enable such personnel to meet high professional standards for educating limited English proficient children;

"(4) improving the quality of professional development programs in schools or departments of education at institutions of higher education, for educational personnel serving, or preparing to serve, limited English proficient children; and

"(5) supporting the recruitment and training of prospective educational personnel to serve limited English proficient children by providing fellowships for undergraduate, graduate, doctoral, and post-doctoral study related to the instruction of such children.

"(b) AUTHORIZATION.—

"(1) IN GENERAL.—The Secretary is authorized to award grants under this section to—

"(A) State educational agencies;

"(B) local educational agencies;

"(C) institutions of higher education; or

"(D) consortia of one or more local educational agencies, State educational agencies, institutions of higher education, for-profit organizations, or nonprofit organizations.

"(2) DURATION.—Each grant awarded under this section shall be awarded for a period of not more than 4 years.

"(c) AUTHORIZED ACTIVITIES.—Grants awarded under this section shall be used to conduct high-quality professional development programs and effective activities to improve the quality of instruction and services provided to limited English proficient children, including—

"(1) implementing preservice and inservice professional development programs for teachers who serve limited English proficient children, administrators, and other educational personnel who are preparing to provide educational services for limited English proficient children, including professional development programs that assist limited English proficient children to attain English proficiency;

"(2) implementing school-based collaborative efforts among teachers to improve instruction in core academic subjects, especially reading, for limited English proficient children;

"(3) developing and implementing programs to assist beginning teachers who serve limited English proficient children with transitioning to the teaching profession, including programs that provide mentoring and team teaching with trained and experienced teachers;

"(4) implementing programs that support effective teacher use of education technologies to improve instruction and assessment;

"(5) developing curricular materials and assessments for teachers that are appropriate to the needs of limited English proficient children, and that are aligned with challenging State academic content and student academic achievement standards, including materials and assessments that ensure limited English proficient children attain English proficiency;

"(6) integrating and coordinating activities with entities carrying out other programs consistent with the purpose of this section and supported under this Act, or other Acts as appropriate;

"(7) developing and implementing career ladder programs to upgrade the qualifications and skills of non-certified educational personnel working in, or preparing to work in, language instruction educational programs to enable such personnel to meet high professional standards, including standards for certification and licensure as teachers;

"(8) developing and implementing activities to help recruit and train secondary school students as teachers who serve limited English proficient children;

"(9) providing fellowships and assistance for costs related to enrollment in a course of study at an institution of higher education that addresses the instruction of limited English proficient children in such areas as teacher training, program administration, research, evaluation, and curriculum development, and for the support of dissertation research related to such study, except that any person receiving such a fellowship or assistance shall agree to—

"(A) work in an activity related to improving the educational services for limited English proficient children authorized under this subpart, including work as a teacher that serves limited English proficient children, for a period of time equivalent to the period of time during which such person receives assistance under this paragraph; or

"(B) repay such assistance; and

"(10) carrying out such other activities as are consistent with the purpose of this section.

"(d) APPLICATION.—

"(1) IN GENERAL.—Each eligible entity desiring a grant under this section shall submit an application to the Secretary at such time, in such form, and containing such information as the Secretary may require.

"(2) CONTENTS.—Each application shall—

"(A) describe the programs and activities proposed to be developed, implemented, and administered under the award;

"(B) describe how the applicant has consulted with, and assessed the needs of, public and private schools serving limited English proficient children to determine such schools' need for, and the design of, the program for which funds are sought; and

"(C) describe how the programs and activities to be carried out under the award will be used to ensure that limited English proficient children meet challenging State academic content and student academic achievement standards and attain English proficiency.

"(3) SPECIAL RULE.—An eligible entity that proposes to conduct a master's-level or doctoral-level program with funds received under this section shall include in the entity's application an assurance that such program will include a training practicum in a local elementary school or secondary school program serving limited English proficient children.

"(4) OUTREACH AND TECHNICAL ASSISTANCE.—The Secretary shall provide for outreach and technical assistance to institutions of higher education eligible for assistance under title III of the Higher Education Act of 1965, and institutions of higher education that are operated or funded by the Bureau of Indian Affairs, to facilitate the participation of such institutions in programs and activities under this section.

"(5) DISTRIBUTION RULE.—In making awards under this section, the Secretary shall ensure adequate representation of Hispanic-serving institutions that demonstrate competence and

experience in carrying out the programs and activities authorized under this section and that are otherwise qualified.

"(e) PRIORITIES IN AWARDING GRANTS.—

"(1) GRANTS TO AGENCIES.—In awarding grants to State educational agencies and local educational agencies under this section, the Secretary shall give priority to agencies that propose programs and activities designed to implement professional development programs for teachers and educational personnel who are providing or preparing to provide educational services for limited English proficient children, including services provided through language instruction educational programs, that ensure such children attain English proficiency and meet challenging State academic content and student academic achievement standards.

"(2) GRANTS TO INSTITUTIONS OF HIGHER EDUCATION.—In awarding grants to institutions of higher education under this section, the Secretary shall give priority to institutions that propose programs and activities to recruit and upgrade the qualifications and skills of certified and non-certified educational personnel by offering degree programs that prepare beginning teachers to serve limited English proficient children.

"(f) PROGRAM EVALUATIONS.—Each recipient of an award under this section for a program or activity shall annually conduct an independent evaluation of the program or activity and submit to the Secretary a report containing such evaluation. Such report shall include information on—

"(1) the program or activity conducted by the recipient to provide high-quality professional development to participants in such program or activity;

"(2) the number of participants served through the program or activity, the number of participants who completed the requirements of the program or activity, and the number of participants who took positions in an instruction setting with limited English proficient children;

"(3) the effectiveness of the program or activity in imparting the professional skills necessary for participants to achieve the objectives of the program or activity; and

"(4) the teaching effectiveness of graduates of the program or activity or other participants who have completed the program or activity.

"Subpart 4—Emergency Immigrant Education Program

"SEC. 3241. PURPOSE.

"The purpose of this subpart is to assist eligible local educational agencies that experience unexpectedly large increases in their student population due to immigration—

"(1) to provide high-quality instruction to immigrant children and youth; and

"(2) to help such children and youth—

"(A) with their transition into American society; and

"(B) meet the same challenging State academic content and student academic achievement standards as all children are expected to meet.

"SEC. 3242. STATE ADMINISTRATIVE COSTS.

"For any fiscal year, a State educational agency may reserve not more than 1.5 percent (2 percent if the State educational agency distributes funds received under this subpart to local educational agencies on a competitive basis) of the amount allotted to such agency under section 3244 to pay the costs of performing such agency's administrative functions under this subpart.

"SEC. 3243. WITHHOLDING.

"Whenever the Secretary, after providing reasonable notice and opportunity for a hearing to any State educational agency, finds that there is a failure to comply with a requirement of any provision of this subpart, the Secretary shall notify that agency that further payments will not be made to the agency under this subpart or, in the discretion of the Secretary, that the State educational agency shall not make further payments under this subpart to specified local educational agencies whose actions cause or are involved in such failure until the Secretary is satisfied that there is no longer any such failure to comply. Until the Secretary is so satisfied, no further payments shall be made to the State educational agency under this subpart, or payments by the State educational agency under this subpart shall be limited to local educational agencies whose actions did not cause or were not involved in the failure, as the case may be.

"SEC. 3244. STATE ALLOTMENTS.

"(a) PAYMENTS.—The Secretary shall, in accordance with the provisions of this section, make payments to State educational agencies for each of the fiscal years 2002 through 2008 for the purpose set forth in section 3241.

"(b) ALLOTMENTS.—

"(1) IN GENERAL.—Except as provided in subsections (c) and (d), of the amount appropriated for each fiscal year for this subpart, each State participating in the program assisted under this subpart shall receive an allotment equal to the proportion of the number of immigrant children and youth who are enrolled in public elementary schools or secondary schools under the jurisdiction of each local educational agency described in paragraph (2), and in nonpublic elementary schools or secondary schools within the district served by each such local educational agency within such State, relative to the total number of immigrant children and youth so enrolled in all the States participating in the program assisted under this subpart.

"(2) ELIGIBLE LOCAL EDUCATIONAL AGENCIES.—A local educational agency referred to in paragraph (1) is a local educational agency for which the sum of the number of immigrant children and youth who are enrolled in public elementary schools or secondary schools under the jurisdiction of such agency, and in nonpublic elementary schools or secondary schools within the district served by such agency, during the fiscal year for which the payments are to be made under this subpart, is equal to at least—

"(A) 500; or

"(B) 3 percent of the total number of children enrolled in such public or nonpublic schools during such fiscal year, whichever is less.

"(c) DETERMINATIONS OF NUMBER OF CHILDREN AND YOUTH.—

"(1) IN GENERAL.—Determinations by the Secretary under this section for any period with respect to the number of immigrant children and youth shall be made on the basis of data or estimates provided to the Secretary by each State educational agency in accordance with criteria established by the Secretary, unless the Secretary determines, after notice and opportunity for a hearing to the affected State educational agency, that such data or estimates are clearly erroneous.

"(2) SPECIAL RULE.—No such determination with respect to the number of immigrant children and youth shall operate because of an underestimate or overestimate to deprive any State educational agency of the allotment under this section that such State would otherwise have received had such determination been made on the basis of accurate data.

"(d) REALLOTMENT.—

"(1) IN GENERAL.—Whenever the Secretary determines that any amount of a payment made to a State under this subpart for a fiscal year will not be used by such State for carrying out the purpose for which the payment was made, the Secretary shall make such amount available for carrying out such purpose to one or more other States to the extent the Secretary determines that such other States will be able to use such additional amount for carrying out such purpose.

"(2) FISCAL YEAR.—Any amount made available to a State from any appropriation for a fiscal year in accordance with paragraph (1) shall, for purposes of this subpart, be regarded as part of such State's payment (as determined under subsection (b)) for such year, but shall remain available until the end of the succeeding fiscal year.

"(e) RESERVATION OF FUNDS.—

"(1) IN GENERAL.—Notwithstanding any other provision of this subpart, if the amount appropriated to carry out this subpart exceeds $50,000,000 for a fiscal year, a State educational agency may reserve not more than 20 percent of such agency's payment under this subpart for such year to award grants, on a competitive basis, to local educational agencies within the State as follows:

"(A) AGENCIES WITH IMMIGRANT CHILDREN AND YOUTH.—At least ½ of the funds reserved under this paragraph shall be made available to eligible local educational agencies (as described in subsection (b)(2)) within the State with the highest numbers and percentages of immigrant children and youth.

"(B) AGENCIES WITH A SUDDEN INFLUX OF CHILDREN AND YOUTH.—Funds reserved under this paragraph and not made available under subparagraph (A) may be distributed to local educational agencies within the State that are experiencing a sudden influx of immigrant children and youth and that are otherwise not eligible for assistance under this subpart.

"(2) USE OF GRANT FUNDS.—Each local educational agency receiving a grant under paragraph (1) shall use such grant funds to carry out the activities described in section 3247.

"(3) INFORMATION.—Local educational agencies receiving funds under paragraph (1) with the highest number of immigrant children and youth may make information available on serving immigrant children and youth to local educational agencies in the State with sparse numbers of such children and youth.

"SEC. 3245. STATE APPLICATIONS.

"(a) SUBMISSION.—No State educational agency shall receive any payment under this subpart for any fiscal year unless such agency submits an application to the Secretary at such time, in such manner, and containing or accompanied by such information, as the Secretary may reasonably require. Each such application shall—

"(1) provide that the educational programs, services, and activities for which payments under this subpart are made will be administered by or under the supervision of the agency;

"(2) provide assurances that payments under this subpart will be used for purposes set forth in sections 3241 and 3247, including a description of how local educational agencies receiving funds under this subpart will use such funds to meet such purposes and will coordinate with entities carrying out other programs and activities assisted under this Act, and other Acts as appropriate;

"(3) provide an assurance that local educational agencies receiving funds under this subpart will coordinate the use of such funds with entities carrying out programs and activities assisted under part A of title I;

"(4) provide assurances that such payments, with the exception of payments reserved under section 3244(e), will be distributed among local educational agencies within that State on the basis of the number of immigrant children and youth counted with respect to each such local educational agency under section 3244(b)(1);

"(5) provide assurances that the State educational agency will not finally disapprove in whole or in part any application for funds received under this subpart without first affording the local educational agency submitting an application for such funds reasonable notice and opportunity for a hearing;

"(6) provide for making such reports as the Secretary may reasonably require to perform the Secretary's functions under this subpart;

"(7) provide assurances—

"(A) that to the extent consistent with the number of immigrant children and youth enrolled in the nonpublic elementary schools or secondary schools within the district served by a local educational agency, such agency, after consultation with appropriate officials of such schools, shall provide for the benefit of such children and youth secular, neutral, and nonideological services, materials, and equipment necessary for the education of such children and youth;

"(B) that the control of funds provided under this subpart for any materials or equipment, or property repaired, remodeled, or constructed with those funds shall be in a public agency for the uses and purpose provided in this

subpart, and a public agency shall administer such funds and property; and

"(C) that the provision of services pursuant to this paragraph shall be provided by employees of a public agency or through contract by such public agency with a person, association, agency, or corporation who or which, in the provision of such services, is independent of such nonpublic elementary school or secondary school and of any religious organization, and such employment or contract shall be under the control and supervision of such public agency, and the funds provided under this paragraph shall not be commingled with State or local funds;

"(8) provide that funds reserved under section 3244(e) be awarded on a competitive basis based on merit and need in accordance with such section; and

"(9) provide an assurance that the State educational agency and local educational agencies in the State receiving funds under this subpart will comply with the requirements of section 1120(b).

"(b) APPLICATION REVIEW.—

"(1) IN GENERAL.—The Secretary shall review all applications submitted pursuant to this section by State educational agencies.

"(2) APPROVAL.—The Secretary shall approve any application submitted by a State educational agency that meets the requirements of this section.

"(3) DISAPPROVAL.—The Secretary shall disapprove any application submitted by a State educational agency that does not meet the requirements of this section, but shall not finally disapprove an application except after providing reasonable notice, technical assistance, and an opportunity for a hearing to the State educational agency.

"SEC. 3246. ADMINISTRATIVE PROVISIONS.

"(a) NOTIFICATION OF AMOUNT.—The Secretary, not later than June 1 of each year, shall notify each State educational agency that has an application approved under section 3245 of the amount of such agency's allotment under section 3244 for the succeeding year.

"(b) SERVICES TO IMMIGRANT CHILDREN AND YOUTH ENROLLED IN NONPUBLIC SCHOOLS.—If by reason of any provision of law a local educational agency is prohibited from providing educational services for immigrant children and youth enrolled in nonpublic elementary schools and secondary schools, as required by section 3245(a)(7), or if the Secretary determines that a local educational agency has substantially failed or is unwilling to provide for the participation on an equitable basis of such children and youth enrolled in such schools, the Secretary may waive such requirement and shall arrange for the provision of services, subject to the requirements of this subpart, to such children and youth. Such waivers shall be subject to consultation, withholding, notice, and judicial review requirements in accordance with the provisions of title I.

"SEC. 3247. USES OF FUNDS.

"(a) USE OF FUNDS.—Funds awarded under this subpart shall be used to pay for enhanced instructional opportunities for immigrant children and youth, which may include—

44

"(1) family literacy, parent outreach, and training activities designed to assist parents to become active participants in the education of their children;

"(2) support of personnel, including teacher aides who have been specifically trained, or are being trained, to provide services to immigrant children and youth;

"(3) tutorials, mentoring, and academic or career counseling for immigrant children and youth;

"(4) identification and acquisition of curricular materials, educational software, and technologies;

"(5) the provision of basic instruction services that are directly attributable to the presence in the school district of immigrant children and youth, including payment of costs of providing additional classroom supplies, costs of transportation, or such other costs as are directly attributable to such additional basic instruction services; and

"(6) such other activities, related to the purpose of this subpart, as the Secretary may authorize.

"(b) CONSORTIA.—A local educational agency that receives a grant under this subpart may collaborate or form a consortium with one or more local educational agencies, institutions of higher education, and nonprofit organizations to carry out a program described in an application approved under this subpart.

"(c) SUBGRANTS.—A local educational agency that receives a grant under this subpart may, with the approval of the Secretary, make a subgrant to, or enter into a contract with, an institution of higher education, a nonprofit organization, or a consortium of such institutions or organizations to carry out a program described in an application approved under this subpart, including a program to serve out-of-school youth.

"(d) CONSTRUCTION.—Nothing in this subpart shall be construed to prohibit a local educational agency from serving immigrant children and youth simultaneously with children and youth with similar educational needs, in the same educational settings where appropriate.

"SEC. 3248. REPORTS.

"(a) BIENNIAL REPORT.—Each State educational agency receiving funds under this subpart shall submit, once every 2 years, a report to the Secretary concerning the expenditure of funds by local educational agencies under this subpart. Each local educational agency receiving funds under this subpart shall submit to the State educational agency such information as may be necessary for such report.

"(b) REPORT TO CONGRESS.—The Secretary shall submit, once every 2 years, a report to the appropriate committees of Congress concerning programs assisted under this subpart.

"Subpart 5—Administration

"SEC. 3251. RELEASE TIME.

"The Secretary shall allow entities carrying out professional development programs funded under this part to use funds provided under this part for professional release time to enable individuals to participate in programs assisted under this part.

"SEC. 3252. NOTIFICATION.

"A State educational agency, and when applicable, the State board for postsecondary education, shall be notified within 3 working days after the date an award under this part is made to an eligible entity within the State.

"SEC. 3253. COORDINATION AND REPORTING REQUIREMENTS.

"(a) COORDINATION WITH RELATED PROGRAMS.—In order to maximize Federal efforts aimed at serving the educational needs of children and youth of limited English proficiency, the Secretary shall coordinate and ensure close cooperation with other programs serving language-minority and limited English proficient children that are administered by the Department and other agencies. The Secretary shall consult with the Secretary of Labor, the Secretary of Health and Human Services, the Secretary of Agriculture, the Attorney General, and the heads of other relevant agencies to identify and eliminate barriers to appropriate coordination of programs that affect language-minority and limited English proficient children and their families. The Secretary shall provide for continuing consultation and collaboration, between the Office of English Language Acquisition, Language Enhancement, and Academic Achievement for Limited English Proficient Students and relevant programs operated by the Department, including programs under this part and other programs under this Act, in planning, contracts, providing joint technical assistance, providing joint field monitoring activities and in other relevant activities to ensure effective program coordination to provide high-quality educational opportunities to all language-minority and limited English proficient children.

"(b) DATA.—The Secretary shall, to the extent feasible, ensure that all data collected by the Department shall include the collection and reporting of data on limited English proficient children.

"(c) PUBLICATION OF PROPOSALS.—The Secretary shall publish and disseminate all requests for proposals for programs funded under this part.

"(d) REPORT.—The Director shall prepare and, not later than February 1 of every other year, shall submit to the Secretary, the Committee on Education and the Workforce of the House of Representatives, and the Committee on Health, Education, Labor, and Pensions of the Senate a report—

"(1) on programs and activities carried out to serve limited English proficient children under this part, and the effectiveness of such programs and activities in improving the academic achievement and English proficiency of children who are limited English proficient;

"(2) containing a critical synthesis of data reported by States under section 3224, when applicable;

"(3) containing an estimate of the number of certified or licensed teachers working in language instruction educational programs and educating limited English proficient children, and an estimate of the number of such teachers that will be needed for the succeeding 5 fiscal years;

"(4) containing the major findings of scientifically based research carried out under this part; and

"(5) containing other information gathered from the reports submitted to the Secretary under this title when applicable.

"PART C—GENERAL PROVISIONS

"SEC. 3301. DEFINITIONS.

"Except as otherwise provided, in this title:

"(1) CHILD.—The term 'child' means any individual aged 3 through 21.

"(2) COMMUNITY-BASED ORGANIZATION.—The term 'community-based organization' means a private nonprofit organization of demonstrated effectiveness, Indian tribe, or tribally sanctioned educational authority, that is representative of a community or significant segments of a community and that provides educational or related services to individuals in the community. Such term includes a Native Hawaiian or Native American Pacific Islander native language educational organization.

"(3) COMMUNITY COLLEGE.—The term 'community college' means an institution of higher education as defined in section 101 of the Higher Education Act of 1965 that provides not less than a 2-year program that is acceptable for full credit toward a bachelor's degree, including institutions receiving assistance under the Tribally Controlled College or University Assistance Act of 1978.

"(4) DIRECTOR.—The term 'Director' means the Director of the Office of English Language Acquisition, Language Enhancement, and Academic Achievement for Limited English Proficient Students established under section 209 of the Department of Education Organization Act.

"(5) FAMILY EDUCATION PROGRAM.—The term 'family education program' means a language instruction educational program or special alternative instruction program that—

"(A) is designed—

"(i) to help limited English proficient adults and out-of-school youths achieve English proficiency; and

"(ii) to provide instruction on how parents and family members can facilitate the educational achievement of their children;

"(B) when feasible, uses instructional programs based on models developed under the Even Start Family Literacy Programs, which promote adult literacy and train parents to support the educational growth of their children, the Parents as Teachers Program, and the Home Instruction Program for Preschool Youngsters; and

"(C) gives preference to participation by parents and immediate family members of children attending school.

"(6) IMMIGRANT CHILDREN AND YOUTH.—The term 'immigrant children and youth' means individuals who—

"(A) are aged 3 through 21;

"(B) were not born in any State; and

"(C) have not been attending one or more schools in any one or more States for more than 3 full academic years.

"(7) INDIAN TRIBE.—The term 'Indian tribe' means any Indian tribe, band, nation, or other organized group or community, including any Native village or Regional Corporation or Village Corporation as defined in or established pursuant to the Alaska Native Claims Settlement Act, that is recognized as eli-

gible for the special programs and services provided by the United States to Indians because of their status as Indians.

"(8) LANGUAGE INSTRUCTION EDUCATIONAL PROGRAM.—The term 'language instruction educational program' means an instruction course—

"(A) in which a limited English proficient child is placed for the purpose of developing and attaining English proficiency, while meeting challenging State academic content and student academic achievement standards, as required by section 1111(b)(1); and

"(B) that may make instructional use of both English and a child's native language to enable the child to develop and attain English proficiency, and may include the participation of English proficient children if such course is designed to enable all participating children to become proficient in English and a second language.

"(9) NATIVE AMERICAN AND NATIVE AMERICAN LANGUAGE.—The terms 'Native American' and 'Native American language' shall have the meanings given such terms in section 103 of the Native American Languages Act.

"(10) NATIVE HAWAIIAN OR NATIVE AMERICAN PACIFIC ISLANDER NATIVE LANGUAGE EDUCATIONAL ORGANIZATION.—The term 'Native Hawaiian or Native American Pacific Islander native language educational organization' means a nonprofit organization with—

"(A) a majority of its governing board and employees consisting of fluent speakers of the traditional Native American languages used in the organization's educational programs; and

"(B) not less than 5 years successful experience in providing educational services in traditional Native American languages.

"(11) NATIVE LANGUAGE.—The term 'native language', when used with reference to an individual of limited English proficiency, means—

"(A) the language normally used by such individual; or

"(B) in the case of a child or youth, the language normally used by the parents of the child or youth.

"(12) PARAPROFESSIONAL.—The term 'paraprofessional' means an individual who is employed in a preschool, elementary school, or secondary school under the supervision of a certified or licensed teacher, including individuals employed in language instruction educational programs, special education, and migrant education.

"(13) SPECIALLY QUALIFIED AGENCY.—The term 'specially qualified agency' means an eligible entity, as defined in section 3141, in a State whose State educational agency—

"(A) does not participate in a program under subpart 1 of part A for a fiscal year; or

"(B) submits a plan (or any amendment to a plan) that the Secretary, after reasonable notice and opportunity for a hearing, determines does not satisfy the requirements of such subpart.

"(14) STATE.—The term 'State' means each of the 50 States, the District of Columbia, and the Commonwealth of Puerto Rico.

"(15) TRIBALLY SANCTIONED EDUCATIONAL AUTHORITY.—The term 'tribally sanctioned educational authority' means—

"(A) any department or division of education operating within the administrative structure of the duly constituted governing body of an Indian tribe; and

"(B) any nonprofit institution or organization that is—

"(i) chartered by the governing body of an Indian tribe to operate a school described in section 3112(a) or otherwise to oversee the delivery of educational services to members of the tribe; and

"(ii) approved by the Secretary for the purpose of carrying out programs under subpart 1 of part A for individuals served by a school described in section 3112(a).

"SEC. 3302. PARENTAL NOTIFICATION.

"(a) IN GENERAL.—Each eligible entity using funds provided under this title to provide a language instruction educational program shall, not later than 30 days after the beginning of the school year, inform a parent or the parents of a limited English proficient child identified for participation in, or participating in, such program of—

"(1) the reasons for the identification of their child as limited English proficient and in need of placement in a language instruction educational program;

"(2) the child's level of English proficiency, how such level was assessed, and the status of the child's academic achievement;

"(3) the method of instruction used in the program in which their child is, or will be, participating, and the methods of instruction used in other available programs, including how such programs differ in content, instruction goals, and use of English and a native language in instruction;

"(4) how the program in which their child is, or will be participating will meet the educational strengths and needs of the child;

"(5) how such program will specifically help their child learn English, and meet age appropriate academic achievement standards for grade promotion and graduation;

"(6) the specific exit requirements for such program, the expected rate of transition from such program into classrooms that are not tailored for limited English proficient children, and the expected rate of graduation from secondary school for such program if funds under this title are used for children in secondary schools;

"(7) in the case of a child with a disability, how such program meets the objectives of the individualized education program of the child; and

"(8) information pertaining to parental rights that includes written guidance—

"(A) detailing—

"(i) the right that parents have to have their child immediately removed from such program upon their request; and

"(ii) the options that parents have to decline to enroll their child in such program or to choose another program or method of instruction, if available; and

"(B) assisting parents in selecting among various programs and methods of instruction, if more than one program or method is offered by the eligible entity.

"(b) SEPARATE NOTIFICATION.—In addition to providing the information required to be provided under subsection (a), each eligible entity that is using funds provided under this title to provide a language instruction educational program, and that has failed to make progress on the annual measurable achievement objectives described in section 3122 for any fiscal year for which part A is in effect, shall separately inform a parent or the parents of a child identified for participation in such program, or participating in such program, of such failure not later than 30 days after such failure occurs.

"(c) RECEIPT OF INFORMATION.—The information required to be provided under subsections (a) and (b) to a parent shall be provided in an understandable and uniform format and, to the extent practicable, in a language that the parent can understand.

"(d) SPECIAL RULE APPLICABLE DURING SCHOOL YEAR.—For a child who has not been identified for participation in a language instruction educational program prior to the beginning of the school year, the eligible entity shall carry out subsections (a) through (c) with respect to the parents of the child within 2 weeks of the child being placed in such a program.

"(e) PARENTAL PARTICIPATION.—

"(1) IN GENERAL.—Each eligible entity using funds provided under this title to provide a language instruction educational program shall implement an effective means of outreach to parents of limited English proficient children to inform such parents of how they can—

"(A) be involved in the education of their children; and

"(B) be active participants in assisting their children—

"(i) to learn English;

"(ii) to achieve at high levels in core academic subjects; and

"(iii) to meet the same challenging State academic content and student academic achievement standards as all children are expected to meet.

"(2) RECEIPT OF RECOMMENDATIONS.—The outreach described in paragraph (1) shall include holding, and sending notice of opportunities for, regular meetings for the purpose of formulating and responding to recommendations from parents described in such paragraph.

"(f) BASIS FOR ADMISSION OR EXCLUSION.—A child shall not be admitted to, or excluded from, any federally assisted education program on the basis of a surname or language-minority status.

"SEC. 3303. NATIONAL CLEARINGHOUSE.

"The Secretary shall establish and support the operation of a National Clearinghouse for English Language Acquisition and Language Instruction Educational Programs, which shall collect, analyze, synthesize, and disseminate information about language in-

struction educational programs for limited English proficient children, and related programs. The National Clearinghouse shall—

"(1) be administered as an adjunct clearinghouse of the Educational Resources Information Center Clearinghouses system supported by the Office of Educational Research and Improvement;

"(2) coordinate activities with Federal data and information clearinghouses and entities operating Federal dissemination networks and systems;

"(3) develop a system for improving the operation and effectiveness of federally funded language instruction educational programs;

"(4) collect and disseminate information on—

"(A) educational research and processes related to the education of limited English proficient children; and

"(B) accountability systems that monitor the academic progress of limited English proficient children in language instruction educational programs, including information on academic content and English proficiency assessments for language instruction educational programs; and

"(5) publish, on an annual basis, a list of grant recipients under this title.

"SEC. 3304. REGULATIONS.

"In developing regulations under this title, the Secretary shall consult with State educational agencies and local educational agencies, organizations representing limited English proficient individuals, and organizations representing teachers and other personnel involved in the education of limited English proficient children.".

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